

James R. Condo (#005867)
Amanda Sheridan (#005867)
SNELL & WILMER L.L.P.
One Arizona Center
400 E. Van Buren
Phoenix, AZ 85004-2204
Telephone: (602) 382-6000
jcondo@swlaw.com
asheridan@swlaw.com

Richard B. North, Jr. (admitted *pro hac vice*)
Georgia Bar No. 545599
Matthew B. Lerner (admitted *pro hac vice*)
Georgia Bar No. 446986
NELSON MULLINS RILEY & SCARBOROUGH LLP
Atlantic Station
201 17th Street, NW, Suite 1700
Atlanta, GA 30363
Telephone: (404) 322-6000
richard.north@nelsonmullins.com
matthew.lerner@nelsonmullins.com

Attorneys for Defendants
C. R. Bard, Inc. and
Bard Peripheral Vascular, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products Liability MDL NO. 15-02641-PHX-DGC
Litigation

This Document Relates to:

ARON ALDRIDGE, an individual,

Plaintiff,

v.

Case No. CV-15-02500-PHX-DGC

C. R. BARD, INC., a New Jersey
Corporation; AND BARD PERIPHERAL
VASCULAR INC., (a subsidiary and/or
Division of Defendant C. R. BARD, INC.)
an Arizona Corporation,

Defendants.

**DEFENDANTS' MOTION TO
DISMISS THE PLAINTIFF'S
COMPLAINT**

Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively, “Bard”) hereby move to dismiss the plaintiff’s Complaint (the “Complaint”) pursuant to Federal Rule of Civil Procedure 12(b). At the time the Complaint was filed on behalf of Aron Aldridge, in his individual capacity, for his alleged personal injuries, he was already deceased. As the Court has previously held,¹ a deceased party cannot be a party to a legal action and, as a result, the Complaint is a legal nullity, and the Court has no jurisdiction over it. Defendants therefore respectfully request that the Court dismiss the Complaint with prejudice.

The arguments in support of this motion to dismiss are set forth in the accompanying memorandum of law, which is incorporated herein by reference.

This 14th day of November, 2016.

s/Richard B. North, Jr.

Richard B. North, Jr.

Georgia Bar No. 545599

Matthew B. Lerner

Georgia Bar No. 446986

NELSON MULLINS RILEY & SCARBOROUGH LLP
Atlantic Station

201 17th Street, NW / Suite 1700

Atlanta, GA 30363

PH: (404) 322-6000

FX: (404) 322-6050

richard.north@nelsonmullins.com

matthew.lerner@nelsonmullins.com

James R. Condo (#005867)

Amanda Sheridan (#005867)

SNELL & WILMER L.L.P.

One Arizona Center

400 E. Van Buren

Phoenix, AZ 85004-2204

PH: (602) 382-6000

jcondo@swlaw.com

asheridan@swlaw.com

**Attorney for Defendants C. R. Bard, Inc. and
Bard Peripheral Vascular, Inc.**

¹ *In re: Bard IVC Filters Prod. Liab. Litig.*, No. 2641, 2016 WL 3055112, at *1 (D. Ariz. May 31, 2016), *appeal dismissed* (July 15, 2016).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 14, 2016, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send notification of such filing to all counsel of record.

s/Richard B. North, Jr.
Richard B. North, Jr.
Georgia Bar No. 545599
NELSON MULLINS RILEY & SCARBOROUGH LLP
Atlantic Station
201 17th Street, NW / Suite 1700
Atlanta, GA 30363
PH: (404) 322-6000
FX: (404) 322-6050
richard.north@nelsonmullins.com